



April 4, 2006

The Honorable Charles L.A. Terreni
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Dear Mr. Terreni:

South Carolina Electric & Gas Company supports the Commission's efforts to create a structure for the review and consideration of settlement agreements in cases before it. As the Commission is aware, over the past two years SCE&G has been a party to total or partial settlements in both gas and electric base rate proceedings, and in the Company's last two purchase gas adjustment and electric fuel clause proceedings. Many of these settlement agreements were concluded very late in the regulatory process, in some cases within days of the hearing on the merits.

With that experience in mind, SCE&G is providing the following comments on the Proposed Settlement Policies and Procedures (the "Proposal") presented on March 21, 2006. The Company hopes that these recommendations will assist the Commission in further refining these policies and procedures to bring additional efficiency and certainty to the settlement review process.

Filing Settlement Agreement with the Commission

Section V of the Proposal contemplates that a settlement agreement would be filed seven days prior to a hearing on any given matter or that a delay in the hearing in the matter might be necessary. SCE&G supports the Commission's goal of allowing adequate time for settlement agreements to be considered before a decision to approve them is made. While seven days is a reasonable goal in some circumstances, SCE&G's experience has been that settlements cannot in all cases be reached by that time in the process. In most cases, settlement negotiations cannot begin in earnest until the parties have had a chance to review the direct testimony of the applicant and the direct testimony, including audit results, of the Office of Regulatory Staff. In some cases, it has only been after the applicant's rebuttal testimony was filed that the parties saw that they had enough common ground to make a settlement feasible.

Generally, once negotiations begin in earnest, several rounds of proposal and counter-proposals may be needed to bridge gaps in the positions of the parties. Where multiple intervenors are involved, time is required to communicate each new offer or proposed counter offer to each of them, and to get their consensus.

For this reason, it is not always feasible to expect settlement agreements to be struck within seven days of hearing, particularly in situations where pre-filing deadlines for testimony, such as rebuttal and surrebuttal testimony, come just before or, in some cases, just after seven days before the hearing. While testimony deadlines in some matters can be moved to earlier dates to accommodate this seven-day standard, this will not work in all situations as the data needed for applications and testimony may not be available early enough in the process for the filing deadlines to be changed significantly.

For these reasons, SCE&G would request that the Commission reduce the seven-day time period to four days. This is a small change, but would provide the parties to future proceedings with significant flexibility given the tight deadlines on which cases are prepared for hearing.

Delay of Hearings

Section V of the Proposal provides that the Commission may order a separate Settlement Hearing or delay the scheduled hearing in light of the settlement. In some cases, this approach may present a problem regarding the statutorily required notice to parties of the date of the substantive hearing, and regarding the notice of the hearing that has often been given to the public by bill insert or newspaper publication.

Under S.C. Code Ann. § 1-23-320 (a), “[i]n a contested case, all parties must be afforded an opportunity for hearing after notice of not less than thirty days....” Furthermore, the Commission routinely requires notice of hearing be provided to the general public by bill insert and newspaper publication.

If the Settlement Hearing is held on the date previously noticed for the actual hearing on the matter, notice should not be a problem since all parties and the public would already have the required notice. However, should the Commission delay the Settlement Hearing to another date, arguably the new date would need to be separately noticed. Realistically a utility would need more than 60 days to provide 30 days notice to its customers of a hearing that was delayed due to settlement — *i.e.*, a full cycle of bills with bill inserts announcing the rescheduled hearing date plus 30 days from that final insert reaching a customer. Delays of this magnitude could potentially push the hearings past statutory or other deadlines.

As an alternative, SCE&G would suggest that the Commission’s policy be to proceed with the hearing on the date scheduled, regardless of when a settlement agreement was filed. At minimum, the parties could present the settlement and such supporting evidence and testimony for the record as the Commission was comfortable in hearing at the time, in addition to providing any briefing related to the settlement that the Commission might require. Public witnesses could be accommodated at that hearing. If a second hearing is required, the Commission could then adjourn the hearing to a future

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date, and decide at its next meeting what additional information might be required at that hearing. If at any point it was satisfied with the record before it, the Commission could cancel the second hearing and proceed to issue its order.

In addition, briefing could be a very useful way for the Commission to obtain additional information about a settlement either before or after the initial hearing process. The Commission could ask at any point for briefing on a settlement, and could specify the points about which the Commission has concerns.

Request for supplemental material to support settlements

Under Section III of the Proposal, the Commission "may require further development of an appropriate record in support of a proposed settlement." Since the Commission cannot review the testimony or evidence presented by Parties in support of the Settlement Agreement prior to their introduction into the record, presumably, this implies that the parties would submit the Settlement Agreement, along with supporting testimony and evidence, into the record by a joint motion to that effect. If time permitted, the motion could be considered and granted before the scheduled hearing and the Commission could proceed to review the proffered information at that time. Where time permitted, this approach would enable the Commission to review the settlement and supporting information before the initial hearing, and allow the Commission to issue a directive identifying the additional information required for its consideration that would be made a part of the record at the hearing on this matter. S.C. Code § 1-23-320 (d) and (g).

Thank you for providing us with the opportunity to make these comments. SCE&G supports the Commission's efforts to streamline the settlement review process and appreciates the opportunity to comment on the proposed methods for doing so.

With kind regards,

A handwritten signature in black ink, appearing to read "P. Banks Morrison", written in a cursive style.

Patricia Banks Morrison